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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Donna M. Cirella, et al

PACKAGE AND METHOD OF
MAKING SAME FOR STORING
AND DISPLAYING PRODUCT

Serial No. 10/023,383

Filed 17 December 2001

Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Sir:

Group Art Unit: 3728

Examiner: Jila M. Mohandesi

I hereby certify that this correspondence is being
deposited today with the United States Postal
Service as first class mail in an envelope addressed
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Alexandria, VA 22313-1450.

Robin G. DePoint
Robin G. DePoint

December 22, 2005
Date

Pre-Appeal Brief Request for Review

Appellants request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated beginning on page 3.

Claims on Appeal

1. Package for storing and displaying product, comprising:
a product display member having partially overlapped, closely spaced front and rear layers;
a reusable product container for containing at least one unit of product; and,
means for removably attaching said reusable product container to said product display member, said means for removably attaching comprising extended flange portions trapped between said partially overlapped, closely spaced front and rear layers.
7. The package recited in claim 1 wherein said product display member comprises an opening arranged in a top portion of said product display member to facilitate displaying.

REMARKS

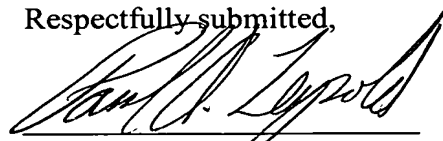
The amendment after final dated December 1, 2005 has been entered as indicated in paragraph 7 of the advisory action dated December 8, 2005. The claims under appeal are claims 1 and 7 as set forth above.

The issue presented for appeal is whether claims 1 and 7 are anticipated by US Patent 4,653,642 – Hakum et al.

Hakum et al. discloses a mask display package comprising a front and rear layer and a mask between the front and rear layers. The appellant's claimed invention comprises a "reusable product container for containing at least one unit of product" that is trapped between overlapped and closely spaced front and rear layers. The appellant has urged that the Hakum et al. reference does not disclose the reusable product container and therefore cannot be anticipating of the instant claims. The Examiner has stated in the response of December 8, 2005 that "Contrary to applicants argument, the outer shell (22) is referred to as the display member and the inner shell (20) and the mask (M) as the reusable product container." It is respectfully urged that this interpretation of the Hakum reference does not read on the claimed invention. Claim 1 requires a reusable product container, a front layer, and a rear layer. The mask and the rear layer are completely separate materials and layers. They are not related in a manner that would let them interact to form a container. Furthermore, even if the back layer and the mask are somehow considered to be a container, then the claim limitation to a rear layer is not met by Hakum et al. Therefore, Hakum et al. is not anticipating of the invention of claims 1 and 7.

Therefore, it is respectfully requested that the rejection of claims 1 and 7 under 35 USC 102 over Hakem be withdrawn and that an early Notice of Allowance be issued in this application.

Respectfully submitted,



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